THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.9169 OF 1997

DATE: 10th JULY 2006

Between:
The Commissioner,
Eluru Municipality,
Eluru, West Godavari
District.

.... Petitioner.

And

1. The Executive Engineer,
   Krishna Eastern Canal Division,
   PWD Grounds, Vijayawada-2
   and 2 others.

.... Respondents.

* * *

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in leasing out park site, which is known as Badeti Park, situated in T.S.No.875/1, Block No.16, 'E' Ward of Eluru town, to the private individuals for the commercial purpose, as arbitrary, illegal and without authority; and consequently to direct the respondents to cancel all the leases sanctioned in favour of the private individuals.

2. Petitioner is the Eluru Municipality (now corporation), West Godavari District. According to it the Revenue Department in the year 1928 alienated an extent of 38,072 square feet approximately

equivalent to 87 cents of land in T.S.No.875/1, Block No.16, and Ward No.E of Eluru town, to Eluru municipality for the purpose of maintaining a park. This area is developed as park and it has been put to use by general public as park and also known as Badeti Park. Originally, this land is a Government poramboke. For the purpose of developing park by the local authority the said land was alienated to Eluru Municipality. While so, the respondents issued impugned proceedings contemplating to convert Badeti Park into sites and allot to private individuals for commercial purpose without any authority.

3. A detailed counter is filed denying the allegations made in the affidavit filed in support of the petition. Though it is denied that property was alienated during year 1928 to the municipality, but it is stated neither the said land is alienated nor given and allotted to the private persons for the purpose of maintaining commercial complex. On the other hand, the very same land has been allotted to the Eluru Municipality exclusively for maintenance of park and road only. Therefore, there is no question of respondents acting illegally in allotting the land in favour of any third parties.

4. In view of the above, by recording the contents of the counter, this writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J.

Date: 10th July 2006.
BSB